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Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450
Attn: Alesia M. Brown, Patent Attorney for the Office of Petitions

December 13, 2006

Application no. 10/075,221
Applicant: Edward L. Blendermann
Filed: November 13, 2002
For: Proprioceptive Device that Contains Nutrients for the Treatment of Statural Diseases
Examiner: John P. Lacyk
Art Unit : 3736

Re: Acknowledgement of the substance of phone interview on December 7, 2006
Request to take the application out of abandonment

Thank you for promptly returning my call that I had made the previous day (Dec. 6, 2006) .

In this interview as you recall we agreed that the date of February 2, 2005 (the mailing date of the advisory action) was the last date that a reply to the final rejection could have been made. Therefore it is from this date that extensions of time were sought. The paid two month extension allowed a timely response to have been made up until April 2, 2005. Therefore, you conceded that the response made on March 31, 2006 was a timely response. However, you added that because fees for two extra claims were not paid the application would still go into abandonment.

I acknowledged this observation and ended the interview with an acknowledgement from you that at least I was right about the response being a timely response but the application would still remain abandoned because of the unpaid fees for two extra claims.

Then when reviewing the record I discovered that there were not any extra claims. Now, I must ask you to review the record where the examiner calculated the number of claims and fees due on November 18, 2004 . In this patent application fee determination record, there is no mention of extra claims and fees due. This is as it should be since there are only 19 claims including 3 independent claims which was an allowable number of claims. Since there are no additional claims, the application cannot be held in abandonment for not paying fees that are not due.

Therefore , I request the withdrawal of the holding of abandonment mailed on 5-04-05.

Thank You,


Edward L. Blendermann